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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

20 UNITED STATES OF AMERICA,) No. CR 11-00737 LHK
21 Plaintiff,) STIPULATION AND [PROPOSED]
22 v.) ORDER CONTINUING HEARING TO
23 SALVADOR THOMAS-PEREZ,) February 15, 2012 AND EXCLUDING
24 Defendant.) TIME FROM January 18, 2012 TO
25) February 15, 2012 FROM THE SPEEDY
26) TRIAL ACT CALCULATION
27)
28)

20 The Parties, SALVADOR THOMAS-PEREZ and the United States, acting through
21 respective counsel, hereby stipulate, subject to the Court's approval, that the hearing currently
22 set for January 18, 2012 at 10:00am be vacated, and that the hearing be re-set for February 15,
23 2012 at 10:00am. The continuance is requested by the defendant's counsel for the following
24 reasons. On November 6, 2011, defense counsel's eighty-eight year old mother broke her hip.
25 On November 9, 2011, defense counsel made his final argument in the case of United States vs.
26 Subin Zhang. CR 05-00812 RMW. Between November 9, 2011, through November 25, 2011,
27 defense counsel took leave to attend to his mother who after overcoming complications, had hip
28 surgery on November 12, 2011. A number of complications arose due to counsel's mother's

1 age, health, and the effects of major surgery. Counsel's mother died on December 13, 2011, and
2 was buried on December 20, 2011. Counsel returned to work on January 9, 2012. On January
3 12, 2012, defense counsel's mother-in-law who had been living with counsel unexpectedly died.
4 She will be buried in Oxnard, California. The funeral is expected to take place sometime during
5 the week of January 17, 2012. Because of these reasons and counsel's case load, he needs
6 additional time to complete his investigation and negotiate a disposition.

7 The parties stipulate that the time between January 18, 2012 and February 15, 2012 is
8 excluded under the Speedy Trial Act, 18 U.S.C. §3161, and agree that the failure to grant the
9 requested continuance would unreasonably deny defense counsel reasonable time necessary for
10 effective preparation, taking into account the exercise of due diligence. Finally, the parties agree
11 that the ends of justice served by granting the requested continuance outweigh the best interest of
12 the public, and the defendant in a speedy trial and in the prompt disposition of criminal cases. 18
13 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

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17 DATED: January 13, 2012

MELINDA HAAG
United States Attorney

19 _____/s/
20 ANN MARIE E. URSPINI
Special Assistant United States Attorney

22 _____/s/
23 MANUEL ARAUJO
Attorney for Defendant

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5 **[PROPOSED] ORDER**
6 Based upon the stipulation of the parties, and for good cause shown, the Court HEREBY
7 ORDERS that the hearing in this matter previously set for January 18, 2012 at 10:00am is
8 vacated, and the matter is continued to February 15, 2012 at 10:00am. Further, the Court
9 ORDERS that the time between January 18, 2012 and February 15, 2012 is excluded under the
10 Speedy Trial Act, 18 U.S.C. §3161. The court finds that the failure to grant the requested
11 continuance would unreasonably deny defense counsel reasonable time necessary for effective
12 preparation, taking into account the exercise of due diligence. Furthermore, the Court finds that
13 the ends of justice served by granting the requested continuance outweigh the best interest of the
14 public and the defendant in a speedy trial and in the prompt disposition of criminal cases. The
15 court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§
16 3161(h)(7)(A) and (B)(iv).

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18 IT IS SO ORDERED.
19 DATED: 1/13/12

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LUCY H. KOH
UNITED STATES DISTRICT COURT JUDGE